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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,569	09/23/2003	Corey J. Lawson	066243-0174 (132265IT)	3036

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EXAMINER
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POPE, DARYL C

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/668,569

**Applicant(s)**

LAWSON ET AL.

**Examiner**

DARYL C. POPE

**Art Unit**

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/2/04</u>   | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### **ART REJECTION:**

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mazar(7,009,511).

-- In considering claim 1, the claimed subject matter that is met by Mazar et al(Mazar) includes:

1) the acquisition device having input, wireless transmitter, receiving device including receiver, and output is met by the devices(106) in conjunction with the communications system(110), which includes sensors, RF communications device, and display(see: column 5, lines 8-49);

2) the receiving device including receiver, output is met by the remote peripheral device(109) including receiver and output(see: column 6, lines 1-14);

Although Mazar teaches communication via the communications system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow point to point data transmission between the device(106) and device(109), since Mazar teaches that both devices including RF communications, and therefore this

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would have alleviated the necessity of communications via the communications system thereby reducing expense of communicating data in the system.

-- With regards to claim 2, although a plurality of inputs for receiving data from sensors is not specifically shown by Mazar, it would have been obvious that a plurality of inputs would have been included in the acquisition device, since the devices would have been designed to monitor various sensors(see: column 5, lines 1-14).

-- With regards to claims 3 and 9, the device being switched between tethered data transmission and untethered data transmission is met(see: column 9, lines 3-13).

-- With regards to claim 4, although not specifically taught by Mazar, it would have been obvious that the device(106) would have included a housing configured to be wearable by the patient, since this some form of housing would have been necessary in order to contain the necessary electronics for the device to perform its functions.

Furthermore, since Mazar states that the device(106) could be a cellular telephone or other handheld device(see: column 5, lines 37-49), it would have been obvious to one of ordinary skill in the art at the time the invention was made to configure the device to be wearable by a patient, since this would have ensured that the device would have always been in close proximity to the monitored patient.

-- Claim 5-7 recites subject matter that is met as discussed in claim 2 above(see: column 5, lines 1-14).

-- With regards to claim 8, the receiving device comprising an alarm is met(see: column 6, lines 4-14).

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-- With regards to claim 10, the examiner takes Official Notice that in the data transmission art, transmission of data and power over the same connection is well known, and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transmit data and power over a single connection upon switching to a tethered data transmission mode, since this would have alleviated the necessity for separate data and power connections.

-- With regards to claim 11, the control output for allowing control of an external device is met by the device(106) including keypad and controlling computer system(200)(see: column 5, lines 65).

-- With regards to claims 12, since Mazar already teaches device(106) controlling a computer system as discussed above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow control of an intra-aortic balloon pump or defibrillator, since the computer system already controls devices that would have been monitoring a patient's health, and therefore control of either of the above stated devices would have helped maintain proper conditions for the patient.

-- Claim 13 recites subject matter that is met as discussed in claim 1 above(see: column 6, lines 1-14).

-- Claims 14-22,24,27, and 33-49 recite subject matter that is met as discussed in claims 1-13 above.

-- Claim 23 recites subject matter that is met as discussed in claim 12 above.

-- With regards to claims 25-26 and 31, since Mazar teaches use of tethered and untethered data transmission as discussed above, it would have been obvious that

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some form of processing circuitry would have switched the data transmission mode as well, since this would have been necessary in order to direct the transmission of data away from wireless communication to wired communication. Furthermore, it would have been obvious that a wired output slot would have been coupled since this would have been necessary in order to receive the wired connection.

As well, upon incorporation of power and data over the same connection, it would have been obvious that the transmission of data and reception of power would have been received simultaneously since the data and power would have shared the same connection for the reasons as discussed above.

-- With regards to claims 28-29 since Mazar already teaches incorporating multi mode wireless telecommunications into the devices(102,104,106)(see: column 7, lines 49 et seq), it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow automatic connection between devices when in close proximity, since this would have allowed the devices to quickly share important information when in proximity to each other.

-- With regards to claim 30, the examiner takes Official Notice that in the mobile device art, use of rechargeable batteries are well known, and therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a rechargeable battery adapted to be recharged when the devices in a tethered data transition mode, since the device would have already been receiving power via the data and power connection.

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-- Claim 32 recites subject matter that is met as discussed in claim 24 above(see: column 7, lines 50-62).

**Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARYL C. POPE whose telephone number is 571-272-2959. The examiner can normally be reached on M-TH 9:00-7:30.

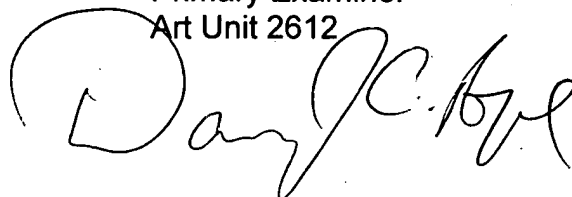
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MIKE HORABIK can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daryl C. Pope

March 3, 2006

DARYL C POPE  
Primary Examiner  
Art Unit 2612

A handwritten signature in black ink, appearing to read "Daryl C. Pope", is written over the printed name and title.